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<PREAMB>

<AGENCY TYPE='S'>DEPARTMENT OF HOMELAND SECURITY

<SUBAGY>Coast Guard

<CFR>33 CFR Part 165

<DEPDO>[Docket No. USCG-2012-0634]

<RIN>RIN 1625-AA00

<SUBJECT>Safety Zone; Gulf Intracoastal Waterway, Mile Marker 35.2 to Mile Marker 35.5, West of Harvey Locks, Bank to Bank, Lafourche Parish, Larose, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final rule.

SUMMARY: The Coast Guard is re-establishing a temporary safety zone in the Gulf Intracoastal Waterway, Mile Marker 35.2 to Mile Marker 35.5, west of Harvey Locks, bank to bank, Larose, Lafourche Parish, LA. This Safety Zone is needed to protect the general public, vessels and tows from destruction, loss or injury due to the installation of a new sheetpile floodwall on the waterward side of the existing Larose floodwall and construction of a new rip-rap barge impact barrier on the Gulf Intracoastal Waterway side of the new floodwall.

DATES: This rule is effective August 3, 2012 through

January 1, 2013. This rule is enforceable with actual notice on July 1, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2012-0634]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Ensign (ENS) Nicholas Jones, Coast Guard; telephone 985-857-8507 ext. 232, e-mail Nicholas.B.Jones@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

<HD1>Table of Acronyms

<EXTRACT>

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking</EXTRACT>

<HD1>A. Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. This rule re-establishes a safety zone necessary to protect life and property from hazards associated with the ongoing floodwall repair and construction project. The Coast Guard established the initial safety zone for this project in a Temporary Final Rule on January 25, 2012 at docket USCG-2011-1128 (77 FR 3609) to be enforced through June 30, 2012. The floodwall repair and construction project are still ongoing and this safety zone is needed immediately to ensure there is no gap in providing the necessary safety measures to protect personnel, general public, vessel and tows, and mariners from hazards associated with the ongoing floodwall repair and construction process. Publishing a NPRM would

unnecessarily delay the effective date for this rule which would be contrary to the public interest. Delaying this project for the NPRM process would also interfere with the contractually imposed timeline for repair of the floodwall.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date for this temporary rule to provide a full 30 days notice is contrary to protect persons and vessels from potential safety hazards associated with the floodwall repair and construction project.

<HD1>B. Basis and Purpose

The Coast Guard is reestablishing the safety zone in the Gulf Intracoastal Waterway, Mile Marker 35.2 to Mile Marker 35.5, bank to bank, West of Harvey Locks. The US Army Corps of Engineers contracted installation of a new sheetpile floodwall on the waterward side of the existing Larose Floodwall and construction of a new rip-rap barge impact barrier on the waterward side of the new floodwall. This construction and repair project is now scheduled to continue through January 1, 2013.

The Coast Guard determined that reestablishing the temporary safety zone is needed during these operations.

The legal basis and authorities for this rulemaking establishing a safety zone are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Public Law 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

The purpose of this safety zone is to protect life and property during the continued construction of the floodwall in Larose in the vicinity of GIWW Mile Marker 35.2 to Mile Marker 35.5. This construction project poses significant safety hazards to both vessels and mariners operating in the vicinity of GIWW Mile Marker 35.2 to Mile Marker 35.5.

<HD1>C. Discussion of Rule

The Coast Guard is reestablishing a temporary Safety Zone in the Gulf Intracoastal Waterway, Mile Marker 35.2-35.5, bank to bank, West of Harvey locks. The temporary Safety Zone will continue through January 1, 2013. Vessels and tows shall transit at slowest safe speed to minimize wake and, after leaving the slowest safe speed zone, proceed with caution to minimize interference with construction activities.

All work on the project is scheduled to be complete by January 1, 2013.

Continuing through January 1, 2013, two barges will be staged on the south side of the waterway at all times but will remain clear of the main channel limit. The COTP Morgan City or a designated representative will inform the public through Broadcast Notice to Mariners of changes in the effective and enforcement periods for the safety zone. This rule is enforceable with actual notice on July 1, 2012. Mariners can contact the contractor via VHF-FM channel 69.

Mariners shall transit at their slowest safe speed to minimize wake and proceed with caution while passing through the construction area.

Charts: 11355.

<HD1>D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

<HD2>1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under

section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that Order.

This rule creates a safety zone implementing slowest safe speed to minimize wake. Vessels will be allowed to enter and transit through the area. Advance notifications to the marine community regarding this safety zone and any restrictions or closures related to the floodwall repair and construction project will be made through Broadcast Notice to Mariners and Local Notice to Mariners. The impacts on routine navigation are expected to be minimal.

<HD2>2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit through the Safety Zone through January 1, 2013. This Safety Zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The zone is

limited in size, is of short duration and vessel traffic are allowed to transit through the safety zone at slowest safe speed.

If you are a small business entity and are significantly affected by this regulation, please contact ENS Nicholas Jones, Marine Safety Unit Houma, at (985) 857-8507 ext. 232.

<HD2>3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the <E T='02'>FOR FURTHER INFORMATION CONTACT</E>, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-

888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

<HD2>4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

<HD2>5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

<HD2>6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the <E T='02'>FOR FURTHER INFORMATION CONTACT</E> section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

<HD2>7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

<HD2>8. Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

<HD2>9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

<HD2>10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically

significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

<HD2>11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

<HD2>12. Energy Effects

This action is not a "significant energy action" under Executive order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

<HD2>13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

<HD2>14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast

Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34) (g.), of the Instruction. This rule will be in effect until January 1, 2013, but is not expected to result in any significant adverse environmental impact as described in NEPA.

An environmental analysis checklist and a categorical exclusion determination will be provided and made available at the docket as indicated in the <E T='02'>ADDRESSES</E> section.

<LSTSUB><HED>List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water, Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

<REGTEXT TITLE=' 33 ' PART=' 165 '>

<PART><HED>PART 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to

read as follows:

<AUTH><HED>Authority:<P> 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. A new temporary § 165.T08-0634 is added to read as follows:

§ 165.T08-0634 Safety Zone; Gulf Intracoastal Waterway, Mile Marker 35.2-35.5, West of Harvey Locks, bank to bank, Lafourche Parish, Larose, LA.

(a) Location. Gulf Intracoastal Waterway, Mile Marker 35.2 to Mile Marker 35.5, West of Harvey Locks, bank to bank, Lafourche Parish, Larose, LA.

(b) Effective date. This rule is effective August 3, 2012 through January 1, 2013 and enforceable with actual notice on July 1, 2012.

(c) Periods of Enforcement. This rule will be enforced July 1, 2012 thru January 1, 2013. The Captain of the Port Morgan City or a designated representative will inform the public through Broadcast Notice to Mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

(d) Regulations.

(1) In accordance with the general regulations in §165.23 of this part, entry into this zone should be at

slowest safe speed to minimize wake through the duration of this rule. During waterway closures entry into this zone is prohibited unless authorized by the Captain of the Port Morgan City.

(2) Mariners shall transit from Mile Marker 35.2 to Mile Marker 35.5 and pass at slowest safe speed to minimize wake.

(3) Mariners should contact the attendant tug on VHF-FM Channel 69 prior to arrival at the construction site for information regarding available horizontal clearance and passing instructions.

(4) All persons and vessels shall comply with the instructions of the Captain of the Port Morgan City and designated on-scene patrol personnel. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(5) Advance notification of any anticipated waterway closures will be made through Broadcast Notice to Mariners and Local Notice to Mariners. During a closure, vessels requiring entry into or passage through the Safety Zone must request permission from the Captain of the Port Morgan City, or a designated representative and passage will be

considered on a case-by-case basis. They may be contacted on VHF Channel 11, 13, or 16, or by telephone at (985) 380-5370.

</REGTEXT>

<SIG><DATED>Dated: June 29, 2012.

<NAME>J. C. Burton,
<TITLE>Captain, U.S. Coast Guard,
Captain of the Port Morgan City, Louisiana.**</SIG>**

<FRDOC> *[FR Doc. 2012–19009 Filed 8–2–12; 8:45 am]*
<BILCOD>*BILLING CODE 9110–04–P*

[FR Doc. 2012-19009 Filed 08/02/2012 at 8:45 am; Publication Date: 08/03/2012]